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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,338	01/17/2003	Brian Francis Gray	AA431 F	1452
27752 7590 02/13/2009 THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202				
EXAMINER				
HAND, MELANIE JO				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
02/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/089,338

Applicant(s)

GRAY ET AL.

Examiner

MELANIE J. HAND

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on October 14, 2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection prompted by applicant's amendment to the claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1 and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Hanser (WO 98/42286 A1).

With respect to **claim 1**: Hanser discloses an absorbent article 20 comprising a pair of longitudinal side edges 34, a liquid pervious topsheet 24, a liquid impervious backsheet 26 joined to said topsheet, and an absorbent core 28 positioned between said topsheet 24 and said backsheet 26. (Page 11, lines 17-25) The absorbent article comprises an oil-based skin care composition contained in microcapsules 160 provided on at least a portion of said topsheet 24 (Page 23, lines 28 – 33, Page 24, lines 17-21) A flap 52 extends laterally outwardly from each longitudinal side edge 34, said flap 52 comprising a garment surface, said garment surface of said flap 52 comprising a flap adhesive 54. (Page 16, line 32, Page 17, line 5) Hanser discloses by reference to U.S. Patent No. 4,687,478 to Van Tillburg a flap that comprises a barrier sheet in the form of a flap liner attached only to said flap of said absorbent article 10 by flap adhesive 236. ('286, Page 17, lines 10-16; '478, Fig. 2, Col. 3, lines 63-68) With respect to the limitations "wherein said barrier sheet reduces the migration of the skin care composition therethrough" and "to protect said flap adhesive from said oil-based skin care composition", the article of Hanser by reference to Van Tilburg meets all of the limitations of claim 1 as to an oil-based composition, flaps and a barrier sheet. Therefore these limitations, which constitute functional language, are anticipated by Hanser as well because the barrier sheet disclosed is fully capable of protecting the flap adhesive from the oil-based composition. Hanser discloses by reference to Van Tilburg a barrier sheet 238 that is made of the same material as a central release liner 222, i.e. "L 30 MG-A Silox E1/0 and BL 30 MG-A Silox 4 P/O, both of which are manufactured by the Akrosil Corporation." ('478, Col. 6, lines 65-68, Col. 5, lines 15-20) These materials are silicone-coated paper release liners and therefore the barrier sheet 238 comprises inorganic particles, i.e. silicone.

With respect to **claim 10**: At least one surface of the barrier sheet 238 disclosed by Van Tilburg (incorporated by reference by Hanser) is treated so as to be releasable inasmuch as the barrier sheet 238 is explicitly disclosed as a release liner and the materials disclosed for the release liner are papers coated at least on one side with a silicone coating, which is responsible for the releasable nature of the liner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.